



## HUMAN RIGHTS COMMISSION

**CHARGE NO.: 2000 CF0013**  
**EEOC NO.: 21B 992521**  
**ALS NO.: 11529**

## **RECOMMENDED ORDER AND DECISION**

This matter comes before me pursuant to the Commission's order of default against Respondents entered on April 25, 2001 in which it directed the Administrative Law Section to conduct a public hearing to determine Complainant's damages.

## Statement of the Case

On April 25, 2001, the Commission entered an order of default against Respondents following the submission of a petition for default by the Department of Human Rights (“Department”) after Respondents failed to file verified responses to the charge lodged by Complainant on December 20, 1999. The order further directed the Administrative Law Section to conduct a public hearing to determine the damages (only) of Complainant for which an award could be entered. Accordingly, on May 8, 2001, an order was sent to the parties at their last known addresses indicating that the public hearing for this purpose would commence at 9:30 a.m. on July 13, 2001 at the offices of the Commission in Chicago.

On the prescribed day, only Complainant appeared for the public hearing, representing herself *pro se*. She then presented testimony regarding her view of the damages she suffered due to the discriminatory behavior attributed to the Respondents. Complainant waived further briefing in the matter.

### **Findings of Fact**

1. Complainant, Obioma Little, filed her Charge No. 2000 CF0013 with the Illinois Department of Human Rights on December 20, 1999, alleging that Respondents, Guillermo Estrada and Jose Marquez, subjected her sexual harassment in the course of her employment at Mango Restaurant during the period of January, 1999 to April, 1999.

2. On April 25, 2001, the Commission entered an order finding Respondents in default for their failure to file verified responses to the charge.

3. Then, on May 8, 2001, an order was entered scheduling a public hearing on the issue of damages for July 13, 2001 at 9:30 a.m. at the Commission's office in Chicago.

4. At the conclusion of the evidence at the public hearing, Complainant waived her right to submit a post-hearing brief in this matter.

5. Complainant suffered significant emotional distress due to the actions of Respondents. The manifestations of the emotional distress included fear of being on the street after work, fear of being alone, weight gain, a noticeable twitch in her face and withdrawal from friends.

6. In response to her emotional distress, Complainant sought counseling from a spiritual advisor. She did not obtain other professional counseling, nor was she prescribed any medication for the emotional distress.

7. These Respondents were not responsible for the termination of Complainant's employment at Mango Restaurant.

8. Complainant did not have an attorney for this matter and she was not billed for any legal services in connection with this case.

### **Conclusions of Law**

1. In accord with the default order entered by the Commission on April 25, 2001, Respondents are liable for a violation of the provisions of the Illinois Human Rights Act that prohibit sexual harassment in the workplace by any person.

2. Complainant is entitled to an award for the emotional distress she suffered because of the unlawful actions of these Respondents.

### **Discussion**

Under the Human Rights Act, charges of civil rights violations are first fully investigated by the Department of Human Rights and a disposition of the charge appropriate to the results of that investigation is made. By not filing a verified answer in response to the charge, Respondents effectively prevented the Department from conducting a full investigation, thereby obstructing it from making an informed, factually based decision whether to file a complaint, dismiss the charge or otherwise dispose of the case.

To support the strong public policy requiring the identification and rectification of civil rights violations as defined by the Illinois Human Rights Act, the legislature determined that the most appropriate sanction for hindering the Department's efforts in this manner is the entry of a default against the offending party. 775 ILCS 5/7A-102(C)(4). The consequence of the default order entered in this case is that Respondents are liable for a violation of the provisions of the Act prohibiting sexual harassment in the workplace as alleged in Complainant's charge.

At public hearing, Complainant appeared *pro se*. She testified that these Respondents were not involved in her eventual termination from employment at the Mango Restaurant. Their actions did, however, cause her significant emotional distress both in the work environment and in her private life. She stated that the sexual harassment caused her to be fearful of other people (Tr. 10), to have the "shakes" (Tr. 11) and a twitch (Tr. 13), to seek spiritual counseling (Tr. 12) and to be sad and depressed (Tr. 13). I find that Complainant suffered emotional distress due to the unlawful actions of both Respondents and is entitled to an award of \$1,500 against each of them, a total of \$3,000.

Because she did not have an attorney for this matter, Complainant is not entitled to the award of attorney fees and costs. Further, her testimony indicated that these individuals were not

involved in the termination of her employment at Mango Restaurant. Therefore, no award will be recommended for these two elements of damages.

**Recommendation**

I recommend that the Commission enter a finding of liability against the Respondents in this matter in accord with the default order entered on April 25, 2001. Further, I recommend that Complainant be awarded \$1,500 against each Respondent for emotional distress, a total of \$3,000. Finally, I recommend that there be no award for damages attributable to the termination of her employment at Mango Restaurant or for attorney fees and costs.

HUMAN RIGHTS COMMISSION

ENTERED:

August 9, 2002

BY: \_\_\_\_\_

DAVID J. BRENT  
ADMINISTRATIVE LAW JUDGE  
ADMINISTRATIVE LAW SECTION

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